

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

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FIREMAN'S FUND INSURANCE COMPANY a/s/o  
TRANSMAR COMMODITY GROUP LTD.,

Plaintiff,

Case No.

v.

COMPLAINT

UNITED COCOA PROCESSORS, INC.,

Defendant (s).

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Plaintiff Fireman's Fund Insurance Company a/s/o TRANSMAR Commodity Group Ltd., by its attorneys, Graham, Miller, Neandross, Mullin & Roonan, LLC., complaining of the defendant, states:

PARTIES

1. At all times hereinafter mentioned, plaintiff is a corporation duly existing as an insurance company under the laws of the State of California, with its principal place of business located at 777 San Marin Drive, Novato, California 94998.

2. At all times hereinafter mentioned, plaintiff is subrogated to all right, title and interest of any claim Transmar Commodity Group Ltd. has against the defendant United cocoa Processor, Inc., as a result of its payment of \$237,311.50 to under a policy of insurance issued by the plaintiff to the its insured.

3. Upon information and belief, at all time hereinafter mentioned, defendant United Cocoa Processor, Inc. is a corporation duly existing under the laws of the State of Delaware, with its principal place of business located at 701 Pencader Drive, Newark, Delaware 19702.

JURISDICTION

4. This Court has jurisdiction over this action under 28 U.S.C. 1332 since there is diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00.

FIRST CAUSE OF ACTION

5. On or before December 2, 2005, Transmar delivered into defendant's possession, in good order and condition, various quantities of cocoa product for storage and processing at a facility located at 701 Pencader Drive, Newark, Delaware.

6. On December 2, 2005, there was a fire in defendant's facility, which caused damage to Transmar's cocoa in the amount of \$237,311.50, an amount which was paid by the plaintiff to Transmar.

7. The fire which damaged the cocoa was the sole result of defendant's negligence and neither plaintiff or Transmar was comparatively negligent.

8. As a result of defendant's negligence, plaintiff suffered a loss of \$237,311.50.

SECOND CAUSE OF ACTION

9. Plaintiff repeats and reiterates each and every allegation contained in the First Cause of Action with the same force and effect as if herein set forth anew.

10. The damage to the cocoa was the sole result of defendant's breach of a contract in bailment and at law.

11. As a result of defendant's breach of contract, plaintiff suffered a loss of \$237,311.50.

WHEREFORE, plaintiff respectfully requests a judgment in favor of the plaintiff against the defendant in the sum of \$237,311.50, with interest from December 2, 2005,

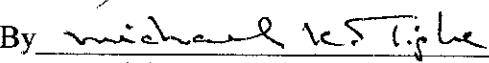
plus costs, expenses, attorneys' fees and such other relief which the Court deems just and proper.

DATED: December 29, 2006  
New York, New York

GRAHAM, MILLER, NEANDROSS,  
MULLIN & ROONAN, LLC.  
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By   
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By   
Michael Tighe



AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

07-014

Civil Action No. \_\_\_\_\_

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U.S. DISTRICT COURT  
DISTRICT OF DELAWARE

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**ACKNOWLEDGMENT**  
**OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A**  
**UNITED STATES MAGISTRATE JUDGE**  
**TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

JAN 09 2007

(Date forms issued)

(Signature of Party or their Representative)

Charlie Joseph  
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action